

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

In the matter of:)	Complaint No. R4-2005-0025
)	Mandatory Minimum Penalty
)	For
RESOLUTION SPECIALTY MATERIALS, LLC.)	Violation of California Water Code § 13376
FORMERLY EASTMAN CHEMICAL COMPANY)	And
LYNWOOD, CA)	Order No. 99-053 (NPDES No. CA0063908)

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) § 13385, subdivisions (h) & (i) is issued to Resolution Specialty Materials, LLC. (formerly Eastman Chemical Company) (hereinafter Permittee) based on findings of violations of waste discharge requirements prescribed in Order No. 99-053 (NPDES No. CA0063908, CI No. 7655).

The Executive Officer (Executive Officer) of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds the following:

1. The Permittee operates a polyester and alkyd resins manufacturing facility for paint production located at 2801 Lynwood Road in Lynwood, California. The Permittee can discharge up to 340,000 gallons per day (gpd) of storm runoff at the facility (Latitude 33°55'34", Longitude 118°13'13"). The wastewater is susceptible of containing suspended solids, oil and grease and other pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as wastes under the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.). The wastewater flows to a storm drain at Lynwood Road and Alameda Street then flows into Compton Creek which then merges with the Los Angeles River, a navigable water of the United States.
2. On June 30, 1999, the Regional Board adopted Order No. 99-053, which prescribes waste discharge requirements to the Permittee for the discharge of treated wastes from the facility.
3. Order No. 99-053 was issued to McWhorter Technologies, Inc. on June 30, 1999. As of January 1, 2001, McWhorter Technologies, Inc. was integrated into Eastman Chemical Company. On August 1, 2004, Resolution Specialty Materials, LLC. completed an asset purchase agreement acquiring the facility from Eastman Chemical Company.
4. On March 30, 2005, the Executive Officer issued Complaint No. R4-2004-0167 in the amount of \$42,000 for exceeding waste discharge effluent limitations contained in Order No. 99-053 and for late submittal of monitoring reports. This complaint was inadvertently

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issued with a 2004 date when it should have been issued with a 2005 date. Complaint No. R4-2005-0025 rescinds Order No. R4-2004-0167.

5. Order No. 99-053 (Part A, page 3) includes the following effluent limitations for suspended solids and oil and grease:

Constituent	Unit of Measure	Discharge Limitations (daily maximum)
Suspended Solids	mg/L	75
Oil and Grease	mg/L	15

mg/L = milligrams/liter

Any discharge containing pollutants violating the effluent limitations set in the waste discharge requirements is prohibited by CWC § 13376.

6. Among the provisions in the Permittee's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit quarterly NPDES self-monitoring reports to the Regional Board pursuant to the authority of CWC § 13383.
7. Eleven (11) violations of Order No. 99-053 were noted in the Permittee's self-monitoring reports during the 1st Quarter 2000 through 4th Quarter 2003. These violations include effluent limit exceedances for suspended solids and oil and grease. Furthermore, the Regional Board received the Permittee's 4th Quarter 2003 self-monitoring report on May 28, 2004, a total of 134 days after the due date of January 15, 2004. The Regional Board also received the Permittee's Annual 2003 report on May 28, 2004, a total of 88 days after the due date of March 1, 2004. The violations are identified in Table 1 attached hereto and incorporated herein by reference.
8. CWC § 13385(h) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC § 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to § 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Furthermore, CWC § 13385.1(a)(1) identifies a failure to file a discharge monitoring report required pursuant to CWC § 13383 for each complete period of 30 days following the deadline for submitting the report as a "serious violation"
9. CWC § 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the permittee violates a waste discharge requirement effluent limitation in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations within that time period.

10. A portion of the penalty not to exceed fifteen thousand dollars (\$15,000) plus fifty percent (50%) of the penalty amount that exceeds fifteen thousand dollars (\$15,000) may be directed to be expended on a Supplemental Environmental Project (SEP) pursuant to CWC § 13385(l).
11. The maximum amount of administrative civil liability assessable pursuant to CWC § 13385 for each day of violation is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

YOU ARE HEREBY GIVEN NOTICE THAT:

12. The Executive Officer proposes that the Permittee be assessed a mandatory minimum penalty in the amount of \$24,000 for the violations which occurred during the 1st Quarter 2000 through the 4th Quarter 2003, and \$18,000 for the violations which occurred on February 15, 2004, March 16, 2004, April 1, 2004, April 15, 2004, May 1, 2004, and May 15, 2004. Refer to Table 1 for the calculation of the amount of mandatory minimum penalty.
13. A hearing shall be conducted on this Complaint by the Regional Board or Regional Board Hearing Panel (Hearing Panel) within 90 days after service of this Complaint on the Permittee pursuant to CWC §§ 13228.14 and 13323. The Permittee will be notified of the date, time and location of the hearing. The Permittee may waive the right to a hearing. Should the Permittee choose to waive the right to a hearing, an authorized agent must sign the waiver form attached to this Complaint and return the executed waiver to the Regional Board at 320 West 4th Street, Suite 200, Los Angeles, CA 90013, to be received by the Regional Board by the close of business on May 18, 2005. If the hearing is waived, the following options are available to satisfy the civil liability:
 - a. A check in the amount of \$42,000 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver; or
 - b. The Permittee may pay up to \$28,500 of the civil liability by contributing to a SEP on the Regional Board approved SEP List at www.swrcb.ca.gov/rwqcb4/html/programs/enforcement.html. To the greatest degree practicable, there must be a nexus demonstrated with the violations cited in this Complaint and the chosen SEP.

In the event that the Permittee elects to contribute to a SEP, a check in the amount of \$13,500 (payable to the State Water Resources Control Board Cleanup and Abatement Account) shall accompany the signed waiver along with a written statement indicating the SEP chosen and proof of payment shall be submitted to the Regional Board by the close of business on May 18, 2005.

14. Notwithstanding the issuance of this Complaint, the Regional Board shall retain the authority to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements.
15. This enforcement action is exempt from the provisions of the California Environmental Quality Act, California Public Resources Code § 21000 et seq., in accordance with California Code of Regulations, title 14, § 15321.
16. Regulations of the US Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

Jonathan Bishop
Executive Officer

April 15, 2005

WAIVER OF THE RIGHT TO A HEARING

By signing below and returning this Waiver, I hereby waive the right of Resolution Specialty Materials, LLC. to a hearing before the Regional Board to dispute the allegations and civil liability set forth in Administrative Civil Liability Complaint No. R4-2005-0025 (Complaint) issued by the Regional Board Executive Officer. Resolution Specialty Materials, LLC. understands that this Waiver gives up the rights to contest the allegations of the Complaint and the amount of civil liability it imposes.

Resolution Specialty Materials, LLC. elects to pay the civil liability in the following manner [check the relevant box]:

☐ Enclosed herewith in full payment of the civil liability is a \$42,000 check payable to “State Water Resources Control Board Cleanup and Abatement Account.”

Or

☐ Enclosed herewith are a \$13,500 check payable to “State Water Resources Control Board Cleanup and Abatement Account” and proof of payment of at least \$ 28,500 to a Supplemental Environmental Project (SEP) listed on the Regional Board-approved SEP List.

Resolution Specialty Materials, LLC. understands that this Waiver gives up the rights to argue against the allegations made by the Executive Officer in this Complaint and against imposition of, and the amount of, civil liability imposed. Resolution Specialty Materials, LLC. also understands that if an Administrative Civil Liability Order is adopted by the Regional Board, payment in full will be due thirty days after the date of the adoption of the Order.

I hereby affirm that I am duly authorized to act on behalf of and to bind Resolution Specialty Materials, LLC. in the making and giving of this Waiver.

Resolution Specialty Materials, LLC.

Date: _____

By: _____
(Signed name)

(Printed or typed name)

Position: _____